

On November 9, 2011, when we testified to the importance of the passage of House Bill 4766 before the committee of Regulatory Reform, I was asked a question. One of our representatives wanted to know, "Why do auctioneers need education, to learn how to talk fast?"

I was almost too astounded to answer. Since then, I have been considering all I have had to learn in order to provide the best job possible for my client, your constituent. The four auctioneers who were in attendance that day, all get well over thirty hours a year of update education per year.

Here is just a partial list of the many points of knowledge required to provide good service to the public.

- 1 **UNIFORM COMMERCIAL CODE:** This law informs us of the need to notify any secured party at least ten days before we conduct a sale of commercial assets which could be under lien or engage in the bulk transfer of inventory which may have a security interest. It also teaches us the difference between 'absolute' and 'with reserve'. An unregistered auctioneer in St. Joseph, Michigan in 2010 actually advised a single mom, in financial distress, she should sell her home through him "absolute" when she owed the bank \$350,000 and her ex had a lien of \$20,000 against it. This tragedy left her broke, with a portion of her home sold off and owing thousands in attorney fees defending herself against lawsuits.
- 2 **FEDERAL FIREARMS LAWS:** We must be knowledgeable in the laws governing the conveyance of long guns at auction. In 2010, a non-registered auctioneer in Copemish, Michigan was arrested by Federal Marshalls for not conducting his sales in accordance with the law. When the officers served his wife a summons in Florida, she had a fatal heart attack.
3. **STATE FIREARMS LAWS:** The paperwork and requirements to sell hand guns is quite complicated. To not comply can lead to major fines, prison terms and hand guns getting into the wrong hands.
4. **SALES TAX LAWS:** A consignment auction is subject to sales tax. There are many other instances in which an auctioneer is required to collect sales tax. In the early 1990's an auction firm in Marshall ended up having to pay over \$300,000 of non-collected sales tax out of their own pockets. The principals of the firm mortgaged their homes to comply. An auctioneer on the outskirts of Battle Creek had a sale too large to fit on the sellers' property and used the neighbors' property. The State Department of Treasury charged the auctioneer almost \$8,000 in sales tax.
5. **AUTOMOTIVE SALES:** In some instances a Class D Vehicle Broker License is required. In other instances, the auctioneer can, with the use of the auction company's sales tax license, collect and report the sales tax to the state. Knowing when each is appropriate requires considerable knowledge.
6. **PUBLIC SAFETY:** There are special rules which apply to the sale of toys manufactured before the advent of the Consumer Product Safety Improvement Act of 2008. Cribs must have a certain slat width in order to be sold. The sale of Jarts has been illegal for many years. Mattresses have special rules also
7. **FARM AND GARDEN PRODUCTS:** Much care must be exercised in the sorting of product around the barn and garage. There are many substances which, by law, we may not sell. Some substances we may sell if the seal is unbroken. Knowing the laws requires considerable study.
- 8 **REAL ESTATE:** Like most of the other states which require continuing education, when our rules are promulgated to accompany the code, a Registered Auctioneer will be able to take courses related to their area of interest. As a real estate educator, I spend at least five hours a week studying the ever changing world of real estate law.

Gwyn Besner

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